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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,384	02/06/2004	John L. Marcantonio	MS1-1833US	6338

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EXAMINER	
HINZE, LEO T	
ART UNIT	PAPER NUMBER
2854	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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lhptoms@leehayes.com

Office Action Summary	Application No.	Applicant(s)	
	10/773,384	MARCANTONIO ET AL.	
	Examiner	Art Unit	
	Leo T. Hinze	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 28, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herron et al., US 6,791,904 B1 (hereafter Herron) in view of Bi et al., US 2004/0024688 A1 (hereafter Bi).

a. Regarding claim 28:

Herron teaches a clock radio comprising: an electronic time base to keep time (Herron inherently has a time base, as the clock radio keeps a clock time, col. 4, l. 43, and a user can set

alarm times, col. 4, l. 47); a display device ("digital display," col. 4, ll. 45-46) to display the time; a control panel ("tactile controls on the clock-radio device," col. 4, ll. 33-34) configured to receive local instructions, including local time set instructions and local alarm set instructions; a communication interface ("telephone jack," col. 2, l. 24; other interfaces, col. 9, ll. 53-56) configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device; and a control module (Herron inherently has a control module, as the user is able to set the time and set an alarm, col. 4, ll. 42-49) configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions.

Herron does not teach wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote compute that is configured to provide instructions to the network device to form the audio file playlist.

Bi teaches a remote audio data stream that includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote compute that is configured to provide instructions to the network device to form the audio file playlist (¶ 0007). Such a system provides digital audio files with a consistent quality without violating copyright laws (¶ 0006).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Herron wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an

interface output by a remote compute that is configured to provide instructions to the network device to form the audio file playlist, because Bi teaches that such a system provides digital audio files with a consistent quality without violating copyright laws.

b. Regarding claim 32, the combination of Herron and Bi teaches all that is claimed as discussed in the rejection of claim 28 above. Herron also teaches wherein the remote audio data stream comprises a preconfigured playlist of audio files ("subscriber selects audio content," col. 3, ll. 64-65).

c. Regarding claim 33, the combination of Herron and Bi teaches all that is claimed as discussed in the rejection of claim 32 above. Herron also teaches wherein the audio files are selected from the group comprising: a news audio file representing a text-based news story translated by a text-to-speech engine; a weather audio file representing a text-based weather report translated by a text-to-speech engine; a business audio file representing a text-based business story translated by a text-to-speech engine; a sports audio file representing a text-based sports story translated by a text-to-speech engine; a traffic audio file representing a text-based traffic report translated by a text-to-speech engine (see list in col. 4, ll. 7-15).

4. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herron in view of Bi as applied to claim 28 above, and further in view of Janik, US 2005/00113946 A9 (hereafter Janik).

a. Regarding claim 29:

The combination of Herron and Bi teaches all that is claimed as discussed in the rejection of claim 28 above.

The combination of Herron and Bi does not teach wherein the control panel comprises: a forward button configured to skip forward to a next audio file in the remote audio data stream; a back button configured to skip backward to a previous audio file in the remote audio data stream; and an audio source button configured to skip between a plurality of audio data sources available from the network device.

Janik teaches an audio converter device with the ability to stream audio from sources on the internet (¶ 12), including an interface device (32, Fig. 2) with remote (148, Fig. 6), having a track forward button (108, Fig. 6), a track backward button (112, Fig. 6), and a menu button (152, Fig. 6). The system has the ability to play MP3 digital audio files (¶ 6).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Herron to include forward, backward, and source controls as taught by Janik, because a person having ordinary skill in the art would recognize that this would allow a user to be able to chose to move forward, backward and change the audio program, thereby allowing the use to, for example, replay an important audio file containing traffic or weather information which she may not have clearly heard the first time.

b. Regarding claim 30, the combination of Herron, Bi, and Janik teaches all that is claimed as discussed in the rejection of claim 29 above. Herron also teaches wherein the control panel further comprises: a snooze button to turn off the alarm temporarily ("snooze," col. 4, l. 41); a stop/resume button to alternately stop and resume a local function ("playing audio playback is interrupted with the new audio playback," col. 6, ll. 41-58); a local function button to alternately

set the clock radio to different local functions (col. 6, ll. 41-58); and a volume button to set a volume level for the clock radio ("set volume," col. 4, l. 41).

c. Regarding claim 31, the combination of Herron, Bi, and Janik teaches all that is claimed as discussed in the rejection of claim 30 above. Herron also teaches wherein the local functions are selected from the group comprising: a time set function (col. 4, l. 42); an alarm set function (col. 4, l. 42); an AM radio station function (col. 4, l. 42); an FM radio station function (col. 4, l. 42); and an audio source function (col. 6, ll. 41-58).

Response to Arguments

5. Applicant's arguments filed 28 November 2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo T. Hinze whose telephone number is (571) 272-2167. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ren Yan

REN YAN
PRIMARY EXAMINER

Leo T. Hinze
Patent Examiner
AU 2854
03 January 2007